

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

LIBERTARIAN PARTY OF TENNESSEE,)
ANTHONY WALL, GREEN PARTY OF)
TENNESSEE, KATHLEEN A. CULVER,)
CONSTITUTION PARTY OF)
TENNESSEE and JOAN CASTLE,)

Plaintiffs,)

v.)

MARK GOINS, Coordinator of)
Elections for the State of Tennessee, and)
TRE HARGETT, Secretary of State for the)
State of Tennessee,)

Defendants.)

Case No. 3:08-0063
Judge Haynes

ATTACHMENT

EXHIBIT F

DEPOSITION OF JOAN CASTLE

*Libertarian Party of Tennessee, et al. v.
Brook Thompson and Riley E. Darnell*

Joan Castle
November 13, 2009

Vowell & Jennings, Inc.
214 Second Avenue North
Suite 207
Nashville, Tennessee 37201
615-256-1935

VJ VOWELL
—AND—
JENNINGS

Original File 091113 J CASTLE(1).txt

1 A. Alabama.

2 Q. When were you registered in Alabama?

3 A. From 19- -- well, I was 18 -- 1970 until 1977.

4 Q. Are you currently registered in Shelby County,

5 Tennessee?

6 A. Yes, I am.

7 Q. You've had a lot of elections down there

8 lately?

9 A. We have, interesting ones.

10 Q. Are you a member of the Constitution Party?

11 A. Yes, I am.

12 Q. Do you know when the Constitution Party was

13 first established in Tennessee?

14 A. In Tennessee, 1992.

15 Q. Do you know when the National Party was first

16 established?

17 A. 1992.

18 Q. Who established the Constitution Party in

19 Tennessee?

20 A. Darrell Castle and Joan Castle.

21 Q. Do you know who established the National

22 Party?

23 A. Howard Phillips.

24 Q. So I assume you have been a member since 1992?

25 A. I have, yes.

1 that Mr. Winger helped provide the assistance in
2 responding to Question No. 5?

3 A. Yes.

4 Q. And what assistance did he provide?

5 A. He provided the information.

6 Q. And did you make any independent verification
7 by contacting the Tennessee Division of Elections or
8 by looking at their website to verify the information
9 that Mr. Winger gave you?

10 A. No.

11 Q. Now, you've indicated that -- that if there
12 were individuals -- that people who associate
13 themselves with your group -- and by that, you mean
14 the Constitution Party?

15 A. Yes.

16 Q. -- have run as independents for local office,
17 state house and senate seats, but you don't have any
18 idea via who, where, or when they ran; is that
19 correct?

20 A. That's pretty right.

21 Q. When you endorsed candidates, did you only
22 endorse candidates at the national level --

23 A. No?

24 Q. -- or did you endorse any candidates at the
25 local level?

1 Q. Okay. Now we'll go back to what was done in
2 2001. And in your answer here you talk about some
3 actions that were taken in 2001, and I want to make
4 sure that what you were trying to do was obtain
5 access -- or to obtain statewide recognition for the
6 2002 general election ballot?

7 A. That's correct. Two-thousand- -- no, we had
8 been working towards the 2004.

9 Q. In 2001, you would have been working toward
10 the 2004 ballot?

11 A. We didn't have a campaign in 2002 or 2003.
12 This grew out of the 2000 election, as best I can
13 remember.

14 Q. Okay. Well, let's go back to what actually --
15 what you've said here. It says here, on August 13th,
16 2001, you contacted Mr. Whittinton (phonetic) with the
17 State Division of Elections; is that correct?

18 A. That's correct.

19 Q. And it says here that you were told you needed
20 24,406 approved signatures. What does that mean by
21 "approved signatures"?

22 A. Approved signatures, at that point, the way it
23 was explained to me, was the name had to match the
24 name on the -- on the -- on your -- I'm sorry, I'm
25 having trouble --

1 Q. The voter registration card?

2 A. -- the voter registration card, and the

3 address had to be exact. Everything had to be exact.

4 It had to be printed, and that was it.

5 Q. Okay. So the name on the petition had to

6 match the name on the voter registration card? The

7 address on the petition had to match the address on

8 the voter registration card?

9 A. Correct.

10 Q. And did you have to have a signature and

11 printed of the name, or just printed of the name

12 (sic)?

13 A. I can't remember, but (indiscernible) --

14 Q. Because this talks about signatures, approved

15 signatures.

16 A. They had to sign and print.

17 Q. Okay. And then you were given some other

18 information about what was needed; is that correct?

19 A. Yes.

20 Q. Okay.

21 A. Yes.

22 Q. And it says here that you submitted a petition

23 to the State Election Division, and it was approved on

24 August 15th, 2001; is that correct?

25 A. Yes.

1 Q. Okay. Did you have anybody else that was
2 working to obtain signatures?

3 A. There were quite a few people that did that.
4 You can -- we sent them out -- people would fill out
5 (sic) and they'd do three or four, they'd get three or
6 four signatures and then send them back to us. Others
7 would fill out the whole thing, but I don't know who
8 they were.

9 Q. Okay. In your answers, you stated that the
10 petition was circulated statewide. And other than
11 what we've discussed, how was it circulated statewide?

12 A. Well, I sent it to people all over the state.

13 Q. Okay.

14 A. And they were getting signatures from wherever
15 they were.

16 Q. All right. And then you indicated that in
17 November of 2001 you submitted copies of the petition
18 that contained approximately 5,430 signatures; is that
19 correct?

20 A. Yes.

21 Q. Did you submit any more copies of the petition
22 with signatures after November of 2001?

23 A. No.

24 Q. And why not?

25 A. Because it was worthless.

1 Winger's statement that the Constitution Party had
2 11,000 signatures as of January 2002?

3 A. Any way of verifying, no.

4 THE COURT REPORTER: Exhibit 3, are you
5 going to want to --

6 MS. KLEINFELTER: We're not making that
7 an exhibit yet.

8 THE COURT REPORTER: Okay.

9 BY MS. KLEINFELTER:

10 Q. Let me ask you, there was some other documents
11 that we asked you to provide, and they weren't
12 provided, so I just want to make sure. We asked for
13 copies of any charter, bylaws, or rules of proceeding
14 of the Constitution Party, and none were provided.

15 A. Right.

16 Q. Do they exist?

17 A. No.

18 Q. Do you have any -- so there is no charter?

19 A. There is no charter.

20 Q. No bylaws?

21 A. No.

22 Q. No rules of proceedings?

23 A. No.

24 Q. Nothing that formalizes how the party is
25 formed or operates?

1 A. We are a group of people who, based on the
2 information given to us by the State, when we were
3 talking about forming a party, it was impossible, so
4 all we are is a group of people in the state who all
5 agree that we are members of an affiliate of the
6 Constitution Party.

7 Q. And by the Constitution Party, are you
8 referring to the National Party?

9 A. National.

10 Q. Okay. So that means you have no formal
11 registration for members; is that correct?

12 A. That's correct.

13 Q. So do you even have memberships?

14 A. We have the -- the people who are on our
15 mailing list consider themselves to be members.

16 Q. And who developed that mailing list?

17 A. It's been developed through different people.
18 I have it. Jim Headings has the current custodial
19 responsibility.

20 Q. Okay. And I believe I've already asked you
21 this, but I just want to confirm it again. The
22 Constitution Party does not -- do you have regular
23 meetings?

24 A. We'll meet about once every four years for the
25 purpose of -- well, sometimes we'll meet sooner than

1 that. We'll get together, but we have -- we'll look
2 for elections ever four years.

3 Q. And do you keep minutes of those meetings?

4 A. No.

5 Q. Do you keep any sort of record of the actions
6 of the Constitution Party?

7 A. No.

8 Q. So do you keep records of when -- for example,
9 when you were appointed chair in 2000?

10 A. No.

11 Q. Okay. What about the when Mr. Headings was
12 elected chair in 2008?

13 A. He wasn't elected. I stepped down.

14 Q. Okay. I'm sorry, when Mr. Headings was
15 elected vice chair in 2006, is what I was referring
16 to, and I'm sorry. Is there any record of that
17 action?

18 A. No.

19 Q. Does the Constitution Party have a tax I.D.
20 number?

21 A. No.

22 Q. Are they incorporated?

23 A. No.

24 Q. You indicated that you handled the financials
25 of the party. How are they handled?

1 A. There is a checking account that there's about
2 \$7 in it.

3 Q. And in whose name is the checking account?

4 A. The Constitution Party Club. Constitution
5 Party of Tennessee Club.

6 Q. Does it have a Social Security number?

7 A. If it does, it's probably mine.

8 Q. Does the Constitution Party have an employer
9 identification number?

10 A. No.

11 Q. And I'm assuming that there's no paid staff?

12 A. No.

13 Q. Do they have any official headquarters?

14 A. No.

15 Q. Any office space that you rent?

16 A. No.

17 Q. Okay.

18 A. May I add one thing?

19 Q. Sure.

20 A. The reason that the name of it is the
21 Constitution Party of Tennessee Club is because the
22 bank would not allow us to just say Constitution Party
23 without any corp -- without some kind of papers.

24 Q. And by papers, what -- did they tell you what
25 papers they needed?

1 A. Like a corporation or --
2 Q. So a charter?
3 A. A charter or something.
4 Q. Okay.
5 A. We don't see ourselves as a club.
6 Q. But you don't have a charter or bylaws?
7 A. No.
8 Q. Just making sure on that. Ms. Castle, you
9 heard me ask Mr. Wall questions about two statutes.
10 The first statute is Tennessee Code annotated 2-1-107,
11 and it contains the requirements that a signature -- a
12 voter's signature on a petition has to meet in order
13 for that signature to be counted. I'm asking you to
14 take a look at that statute and then tell me how the
15 application of that statute is unconstitutional to the
16 Constitution Party. Now I understand that your
17 counsel has made the statement that you are doing this
18 in conjunction with the other statutes, but that
19 statute only deals with whether -- how the
20 determination of a signature -- the validity of a
21 signature is to be determined, whether or not it's to
22 be counted. So again, I'd like to know how that is
23 considered to be unconstitutional as applied to the
24 Constitution Party.
25 A. Would you ask the first part of the question

1 A. I have no problem with that, in and of itself.

2 Q. Let me refer you to Exhibit 2, the petition,
3 and this is the petition that was circulated; is that
4 correct?

5 A. Yes.

6 Q. Okay. And does that petition ask if the
7 individual signing the petition is a member of the
8 Constitution Party?

9 A. No.

10 Q. Okay. And this petition was approved by the
11 State Division of Elections; is that correct?

12 A. I believe it was given to us by them. I
13 believe they gave us one and then we were able to make
14 copies.

15 Q. Okay. So either it came from them, or it was
16 approved by them?

17 A. Yes.

18 Q. Okay. Ms. Castle, in your answer to Question
19 No. 6, you indicated that you spoke with Joel
20 Whittinton on August 13th of 2001. Did you have any
21 other conversations with Mr. Whittinton?

22 A. I don't think so. I don't remember any other.
23 He had told me to call him back when we got through
24 all the other steps.

25 Q. And did you ever get back to him?

1 5,000?

2 A. Yes.

3 Q. 5,430. Now, did you keep all the petition
4 signatures from that petition drive?

5 A. No.

6 Q. All right. And has the Constitution Party,
7 over the years, relied on Mr. Winger to keep accurate
8 records and archives as to what the party has done in
9 Tennessee and other states?

10 A. Yes.

11 Q. And between your knowledge and remembrance and
12 what was provided to Mr. Winger at the time, which
13 would be more accurate, yours or Mr. Winger's?

14 A. Mr. Winger's, because I actually think it was
15 closer to 16,000.

16 Q. All right. But the point is, if Mr. Winger
17 had said that, would you have anything that would
18 dispute the accuracy of his statement?

19 A. No.

20 Q. And why was it you didn't turn in any
21 additional signatures? Did that have to do with the
22 fact that you had run out of time and --

23 MS. KLEINFELTER: Objection to the form.

24 BY MR. LINGER:

25 Q. I'll rephrase it.

1 Was there a reason why you did not turn in the
2 rest of the signatures to the State?

3 A. I'm not sure that they weren't turned in to
4 the State. In fact, I believe they were turned in to
5 the State. I simply didn't have copies of them, and
6 so I did not put them there (indicating).

7 Q. Okay. When you turn in petitions to the
8 State, do you sometimes make Xerox copies of what you
9 turn in?

10 A. Normally, I do, and I'm sure I did, but I did
11 not have them.

12 Q. What you're saying, when you "did not have
13 them," when you made an attempt to answer these
14 discovery requests, those were the only signatures
15 that you still had in your possession after a period
16 of about seven years or so?

17 A. That's correct.

18 MR. LINGER: All right. Nothing further.

19 MS. KLEINFELTER: I just want to follow
20 up on that.

21 E X A M I N A T I O N

22 MS. KLEINFELTER:

23 Q. You've indicated that you believe that,
24 actually, the accurate number -- the more accurate
25 number of signatures was 16,000?

1 A. (Nods head affirmatively.)

2 THE COURT REPORTER: Yes?

3 THE WITNESS: Yes.

4 MS. KLEINFELTER:

5 Q. And when would those have been submitted?

6 A. During the same time frame.

7 Q. During the same time frame, 16,000. Okay.

8 MS. KLEINFELTER: That's all.

9 MR. LINGER: You can go ahead and
10 instruct her.

11 MS. KLEINFELTER: You heard the
12 instruction that I gave Mr. Wall about whether or not
13 you want to waive the signature on your deposition.
14 You have the right to have the copy -- the transcript
15 of the deposition sent to you for you to review to
16 make corrections. You cannot change your testimony,
17 you can make corrections if there's misspellings,
18 incorrect dates, incorrect numbers -- but you can't
19 change the testimony. Or you can waive your
20 signature, which means you just waive that review and
21 those corrections.

22 THE WITNESS: I prefer to review.

23 (Proceedings adjourned at 3:55 p.m.)

24 FURTHER DEPONENT SAITH NOT.
25

Because of bulk, additional documents responsive to this discovery request are mailed in a separate mailer.

RESPONSE TO REQUEST FOR PRODUCTION OF DOCUMENTS

RESPONSE TO REQUEST NO. 6

**PETITION TO ESTABLISH A STATEWIDE PARTY
NAMED THE CONSTITUTION PARTY
IN THE STATE OF TENNESSEE**

We, the undersigned voters, desiring to limit the federal government to its Constitutional boundaries and return our nation's legal system back to its Biblical foundations, sign this petition to create and establish a statewide political party in Tennessee to be known as the Constitution Party.

SIGNATURES OF REGISTERED VOTERS

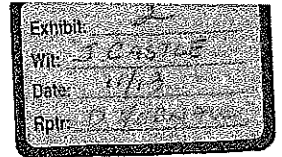
(Must be registered voters of the STATE OF TENNESSEE)

*(Cannot sign for another-no ditto** marks)*

(Address as listed on registration-No P.O. Boxes)

1. Sign here _____ Print here _____	Street address _____ City/state/zip _____
2. Sign here _____ Print here _____	Street address _____ City/state/zip _____
3. Sign here _____ Print here _____	Street address _____ City/state/zip _____
4. Sign here _____ Print here _____	Street address _____ City/state/zip _____
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10. Sign here _____ Print here _____	Street address _____ City/state/zip _____
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1. Sign here _____ Street address _____
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